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THE OVERSEAS PRIVATE
INVESTMENT CORPORATION

REPORT
TO THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
BY THE
SUBCOMMITTEE ON MULTINATIONAL
CORPORATIONS
TOGETHER WITH ADDITIONAL VIEWS

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I. INTRODUCTION

The Overseas Private Investment Corporation (OPIC) primarily administers a program of investment guarantees which insure United States corporations investing abroad in the developing countries against the risks of (a) inconvertibility, (b) expropriation, and (c) war. Since the Marshall Plan, authorization for the investment guarantee program has been incorporated as a part of the legislation authorizing foreign assistance. Until 1969, the program was administered by those agencies responsible for the Foreign Aid Program, most recently the Agency for International Development (AID).

The legislation authorizing the establishment of OPIC as an agency separate from AID was first proposed in 1969, but was not reported by the Senate Foreign Relations Committee. Nonetheless, an amendment to the Foreign Assistance Act was proposed on the floor by Senator Javits and following a brief debate was adopted by the Senate in December, 1969. Until the recent hearings of the Senate Foreign Relations Subcommittee on Multinational Corporations, neither the AID investment guarantee programs nor OPIC had ever been subject to open hearings.

The original mandate of OPIC was limited to five years, and it was the intention of Congress that the program's structure and performance should come under periodic review. During the floor debate on the OPIC legislation, Senator Aiken stated that: "I am willing to give the Overseas Private Investment Corporation a tryout, and see what comes of it. We will undoubtedly review it next year, anyway. . . ." Because OPIC has submitted a request that its present authorization be extended, and, in addition, has asked for a \$72 million supplemental appropriation, the Foreign Relations Committee decided to initiate hearings to determine whether or not OPIC is carrying out its mandate as envisioned by Congress, and to examine the program in terms of United States political and economic relations with the less developed countries.

The Subcommittee on Multinational Corporations was designated to conduct these hearings because OPIC is a government agency used by the multinational corporations. Seventy-nine percent of all OPIC issued insurance was provided to corporations on the Fortune magazine lists of the largest 500 corporations and the 50 largest banks.

The Subcommittee held six days of hearings and heard 42 witnesses. It received statements from individuals who did not appear personally to testify before the Subcommittee, as well as additional material submitted by several witnesses who did testify. This report is based upon the testimony and supplementary material received in the course of the hearings.

II. BACKGROUND OF THE INVESTMENT GUARANTEE PROGRAM

The investment guarantee program, from its inception, has been associated with the foreign policy objectives of the United States.

The program originated as a part of the Economic Cooperation Act of 1948 whose purpose was "to promote world peace and the general welfare, national interests, and foreign policy of the United States through economic, financial, and other measures necessary to the maintenance of conditions abroad in which free institutions may survive and consistent with the maintenance of the strength and stability of the United States."

The United States emerged from the Second World War as the preeminent economic power of the world. The heavy infusion of government spending and capital investment during the war period successfully extricated the national economy from the depression of the 1930's. In the decade 1938-1948, the U.S. GNP had nearly tripled while its exports had quadrupled. Of all of the major industrial powers of the pre-World War II period, only the United States survived the war with its industrial plant intact and its productive capacity greatly expanded.

The immediate post-World War II period generated a number of significant policy issues. Two of these had a very direct impact on the formation of the guarantee program. First, there was concern over the health of the American economy. It was feared that with the end of the war there would be a sharp drop in demand which would result in a severe recession or depression. Second, there was a deep concern over the development of stable governments in the war-ravished countries of Europe. This second concern was significantly heightened as Soviet intentions of domination in Europe became apparent. Communism was seen as a monolithic movement antithetical to U.S. institutions and values.

The operational policy that attempted to alleviate some of the economic problems facing the U.S. economy and at the same time contribute to the development of stable governments in Western Europe was the Marshall Plan. The underlying rationale of the Marshall Plan was that growing and expanding economies raised the probability that stable governments would evolve. A growing economy provides expanded resources for government operations as well as lowering political dissatisfaction among the population. This accelerated economic growth was to be accomplished by a massive capital infusion into Europe to replace capital destroyed during the war.

This infusion of capital goods was to be supplied by the United States thereby helping to hold up the post war demand level in the U.S. domestic economy. In the longer run the rebirth of the economies of Europe and Japan also held the prospect for a greater expansion of world trade. The development of world trade and a financial system to support it were part of the longer run recovery process in Europe and Japan. The percentage of GNP entering into trade in Europe and Japan is two to four times higher than the U.S. percentage. In terms of volume, though, trade was still of economic importance to the United States.

The motivations of the United States in establishing the Marshall Plan and the U.S. post-World War II policy in Europe and Asia are still being argued. It is enough for our purposes here to record that the United States undertook a major program—economic, political, and

military—designed to aid the U.S. economy in its transition to peacetime production and forestall any plans by the Soviet Union to directly or indirectly absorb the countries of Western Europe. One of the centerpieces of this strategy was the Marshall Plan of which the guarantee was a part. The guarantee program consequently arose as an adjunct to the European economic recovery program and, as such, was an intimate, if minor, part of the overall U.S. strategy for the post-World War II period.

A. THE PRE-OPIC PROGRAM

The initial program was modest in scope and only guaranteed equity convertibility; only 12 firms applied in its first year. The coverage of the guarantee program was gradually expanded. In 1949, the definition of eligible investment was broadened to include expansion, modernization, or development of existing enterprises. In 1950, the guarantee was extended to loss through expropriation or confiscation.

In 1951, the guarantee program was revised and attached to the Mutual Securities Act of that year. 1953 saw the program transferred again to the new Foreign Operations Administration. With only 53 contracts for convertibility guarantees written totaling \$39.6 million, with expropriation guarantees totaling only \$1.6 million, and applications pending totaling a mere \$69.2 million, the program was still little used and narrowly concentrated. Insurance had been written for projects in 17 countries, 13 of them in Europe.

In 1956, a major shift in administrative responsibility occurred when the Mutual Security Program was divided between the Department of State and the Department of Defense. The guarantee program was moved to the International Cooperation Administration in the Department of State. Coverage was broadened to include losses "by reason of war."

Throughout the 1950's there was a growing concern in the United States with communist subversion in the less developed countries. This concern began with Korea and was spurred by the British experience in Malaya and the French Indochina War. Also during this period the success of the Marshall Plan in rebuilding Europe became apparent. A logical association was made. What had been successful in Europe could be transferred to the less developed countries. This reasoning is reflected in the concern of the Foreign Relations Committee in 1959 that of the \$400 million in guarantees issued prior to 1959, \$321 million had been investments in Western Europe. The Committee decided to redirect the program by limiting the guarantees solely to less developed countries.

This amendment coincided with a broad trend in other U.S. programs involving the less developed countries. The foreign economic assistance program was transformed from a relatively modest technical assistance effort during the 1950's into a massive capital transfer program in the 1960's. During the 1960's the guarantee program itself was used much more aggressively as a private capital transfer program and was seen as complementing the flow of public capital into the less developed countries. Between 1961 and 1969, for example, ex-

appropriation guarantees issued by the Agency for International Development amounted to \$4.8 billion. In summary, the guarantee program in the 1960's was conceived as a logical corollary to the capital assistance programs administered by AID and the multilateral lending institutions—the IBRD and the regional development banks. It was used to guarantee the movement of large amounts of private capital into less developed countries under the belief that this capital served a public end and would not have moved without the existence of the guarantees.

B. DISILLUSIONMENT WITH FOREIGN AID

During the decade of the 1960's, for a number of reasons, there was a growing disillusionment with foreign aid. The decade began with Congress transferring a conceptual Marshall Plan to the less developed countries and ended with the Administration fighting to sustain the program in a reduced form. This report, the associated legislation and the hearings conducted in relation to these documents are part of the continuing review of the multitude of programs growing out of the aid efforts in the 1950's and 1960's.

As in the European "experiment," the main thrust of the program for less developed countries was the expansion of GNP, the promotion of economic growth. The fallacy of the program, which became apparent over the 1960's, was that the less developed countries needed more than capital to expand economic output. Europe was an industrial society in place with the crucial element of capital missing. The less developed countries at best had small islands of industrialization amidst agricultural sectors dominated by a few exports and subsistence farming.

There was no trained labor pool, no adequate power supplies, no transportation infrastructure, no large markets, no extensive credit or banking system, no effective marketing systems, etc. A lot more was needed than capital. In fact it was soon realized that these countries had a limit on how much capital they could absorb in any given time period. Careful planning and selective investments were needed plus a social reorientation of the society to urban/industrial life.

What was needed in these societies was not just economic growth but economic development. The entire matrix of the social and institutional structures had to be reworked. This was not a project of years; it was a project of decades. It became obvious that immediate economic expansion on the European example was not going to be possible.

It was also realized that the objective of stability would be illusive. While economic growth in an industrial society is a stabilizing influence, economic development in a pre-industrial society is a destabilizing influence. Old social norms are broken down by urban life. More wealth raises problems of distribution. The status quo and the ruling elite are challenged. Education causes a rise in the expectations of the populous. Social unrest spreads when these expectations are not fulfilled. Strong tendencies develop for the imposition of authoritarian political structures. Unfortunately, in many instances where stability was achieved it was done at the cost of more democratic political institutions.

During the 1960's many of the assumptions upon which foreign aid was postulated initially were cast in doubt. The Sino-Soviet split altered the U.S. perception that the Communist bloc was monolithic in nature. The general success of the U.S. containment policy plus the growing nationalism in the less developed countries dispelled the belief that Communism was inexorably expanding. The Vietnam War led to the realization that U.S. resources were limited and that aid commitments could be the first step in costly involvements in areas of limited U.S. national interest.

Finally, from the mid 1960's until present, the Congress has been faced with increasing demands for domestic programing. Many of these problems—poverty, education, housing, urban renewal, health care—are economic development issues in this country. With the issue of Communist subversion declining and severe doubts about the validity and in some cases the efficacy of foreign aid, Congress has been hesitant to fund the foreign aid program in the quantities requested by the Administration.

Supporters of the guarantee program suggest that the genius of the program is that by using private capital it furthers economic development while not causing budgetary outlays. The Subcommittee therefore was especially interested in analyzing the program in light of this assertion. Does the program promote investment abroad? Does the investment abroad promote economic development in its broad definition of social change and economic growth? Are there direct or indirect economic and political costs to the United States inherent in the program? These are the issues primarily addressed in the Report of the Subcommittee.

C. BRIEF DESCRIPTION OF OPIC'S PRESENT PROGRAM ¹

OPIC's present programming can be divided into two major categories: political risk insurance (by far the largest part of OPIC's operation) and development financing. The political risk insurance is divided into three categories: inconvertibility, expropriation, and war damage insurance. The inconvertibility portfolio consists of \$3 billion in current liabilities. This coverage does not protect against devaluation losses by the investor. OPIC guarantees that the investor will receive dollars if the central bank of the host country refuses to transfer locally held funds. During the 25-year history of the program, investors have paid \$39 million for this coverage and \$1,722,000 in claims have been paid. The U.S. Treasury ultimately has secured dollars for all of these claims.

The war, revolution and insurrection portfolio totals roughly \$2.8 billion in current coverage. Claims have been paid in consequence of the Middle East Six Day War and the recent India-Pakistan War. For the past 20 years the program has operated at a profit. Total premiums have been \$56 million, while pay outs have amounted to only \$623,000.

The expropriation portfolio has a current exposure of \$3.3 billion. OPIC has reinsured with Lloyd's of London some \$400 million. The

¹ The dollar figures quoted in this section were provided largely by David A. Hartquist, Assistant to the President of OPIC.

current arrangement is that Lloyd's takes 50 percent of OPIC's exposure in 80 percent of the countries in which OPIC writes insurance and a lesser amount in all other OPIC-covered countries except Chile, with a stop-loss provision in any given country of \$14 million. Over the 25 year history of the expropriation program, investors have paid in \$85 million, while net expropriation claim payments thus far paid out amount to about \$28.1 million. While OPIC has only around \$142 million in reserves to cover all of its insurance programs, approximately \$369 million in expropriation claims remain outstanding, leaving a possible potential deficit in excess of \$200 million.

The overwhelming bulk of OPIC's business is in insuring investments. The development financing aspects of OPIC are a smaller part of the organization's programming. There are three sub-programs in this area.

Under the program of guaranteed development loans for U.S. lenders, OPIC has authority to guarantee \$750 million in loans but is restricted by having to hold 25 percent reserves. At present its reserves are at \$75 million making the ceiling of the program \$300 million. Guarantee fee income has totaled \$7.8 million from the inception of the program. Losses associated with three commercial failures totaled \$12.7 million. The portfolio now consists of 23 projects totaling \$200 million.

Direct lending to private U.S. corporations is the second development financing area. At the inception of OPIC in 1969, this program was to have had an authorization of \$20 million a year for a total of \$100 million over five years. So little of the money has been lent that the ceiling has not been expanded beyond \$40 million. Currently, ten projects are being financed with a loan balance of \$17.7 million. Interest income has amounted to \$607,399.

Finally, OPIC administers a Cooley loan program from P.L. 480 receipts. The Cooley loan fund provides loans in domestic currency to U.S. corporations dealing in excess currency nations. Because P.L. 480 agreements now usually require that the food shipments be paid for in dollars rather than local currencies, this program is drying up.

The major justification for OPIC's existence, however, is the administration of the investment insurance program, particularly the guarantee against expropriation. The hearings, therefore, concentrated on this aspect of OPIC's operations, although material submitted in the course of the hearings dealt with the other aspects, as well.

III. DOES THE INVESTMENT GUARANTEE PROGRAM ASSIST ECONOMIC DEVELOPMENT IN THE LDC's?

The basic rationale for including the Overseas Private Investment Corporation in the Foreign Assistance Act was that it would help promote the development of Third World countries friendly to the United States. This argument rests on two premises: (i) the investment guarantee program is an incentive to direct corporate investment in the poorer countries; (ii) such investment is beneficial to the economic development of these countries. There is lively disagreement with respect to both premises.

A. DOES THE GUARANTY PROGRAM CONSTITUTE A SIGNIFICANT INCENTIVE
TO CORPORATE INVESTMENT ABROAD?

In testimony before the Subcommittee it was acknowledged by OPIC's advocates that the insurance program was probably not a decisive consideration in corporate decisions to invest overseas. This conclusion was stated by Richard Conlon, Vice President and Washington representative of Business International, a group which has among its membership many multinational corporations. Herbert Salzman, Executive Vice President of OPIC, acknowledged that corporate decisions with respect to overseas investment were made in the first instance, irrespective of the availability of investment insurance guarantees. Indeed, OPIC does not even ask whether the investment would proceed without the issuance of the guarantees.

Most OPIC insured investment would probably have occurred even without the OPIC insurance. William P. Meehan, Assistant Treasurer of Motorola, Incorporated, testified that his company's investments in LDC's would continue without OPIC-type insurance coverage. Paul F. Orefice, Financial Vice President of Dow Chemical, called OPIC an "important factor" in Dow's decisions whether and when to invest in LDC's, but also indicated that Dow would often invest if such insurance were not available. This testimony is backed by a 1971 study done by Business International at OPIC's request (Corporate Policy on Investment Insurance, New York, 1971) which found that over half of OPIC's customers said that political risk insurance would not be a necessary condition for future investments.

Even more revealing is the fact that 77 percent of the United States direct investment in LDC's in 1971 was not covered by OPIC, while only seven percent was not covered in 1968.¹

Accordingly, it is clear that OPIC currently has only a marginal effect on fostering new investment when compared to aggregate U.S. investment in the LDCs. Moreover, it has failed to spread private investment throughout the "Third World." OPIC insured investment has been concentrated in only a few LDCs. Seventy-five percent of OPIC insured investment has gone to seven countries, and nearly 50 percent to only three nations—Korea, Indonesia, and Brazil. The world's poorest countries have received little OPIC insured investment. OPIC has not been successful in persuading U.S. firms to invest in the vast majority of poor nations. The hearings have revealed that OPIC has been used by the multinational corporations to insure against risks that stem from concentrating their investments in a few countries.

In the course of their testimony, Richard Reynolds, President and Chairman of the Board of Reynolds Metals Co., and William P. Hobbs, Vice President and Treasurer of the Kaiser Aluminum Company, stated that the availability of investment guarantees played an important part in the decision of their companies to concentrate their bauxite and alumina processing investments in Jamaica. Mr. Reynolds, in

¹ These figures were cited in the Congressional Research Service Report which was prepared for the House OPIC hearings. The figures exclude investment in oil. OPIC does not insure investments in the petroleum industry prior to the refining stage.

particular, indicated that he was doubtful that it would have been possible to obtain financing from the long-term U.S. lenders (private insurance companies) without investment guarantees against expropriation. Both Mr. Reynolds and Mr. Hobbs noted, however, that companies such as their own, which depend on imported bauxite and alumina, with or without investment guarantees, would have to invest in those countries where these resources exist. They testified that without the guarantees, they would seek to diversify the sources of their raw materials, investing in other bauxite rich countries such as Australia, and, perhaps, consider alternatives to equity investment, such as long-term supply and management contracts. Also, it should be noted that Reynolds proceeded with an \$8 million bauxite mining investment in Jamaica, despite the denial of an investment guarantee application submitted by that company to OPIC.

Based upon the evidence submitted, the availability of the investment guarantee program is, at best, a marginal consideration in corporate decisions to invest in LDCs. But its availability and current premium rates make it sufficiently attractive for a significant number of corporations to take out such insurance once the basic decision to invest has been made.

B. DOES FOREIGN CORPORATE INVESTMENT PROMOTE THE "DEVELOPMENT" OF THE POORER COUNTRIES?

A major rethinking of development concepts is taking place, compelled by a single fact: the unparalleled economic growth rates achieved by most developing countries during the 1960's had little or no effect on most of the world's people, who continue to live in desperate poverty.

James P. Grant, Foreign Policy, Fall 1973

Robert Hurwitch, Deputy Assistant Secretary, Bureau of Inter-American Affairs, Department of State, pointed out that business investment abroad is made solely for profit, not for humanitarian reasons. He testified that often labor intensive industries would be best for the development of the LDCs. The facts show that a very large amount of OPIC insured investment has, instead, been capital intensive. For example, William P. Hobbs, Vice President and Treasurer of Kaiser Aluminum, testified that OPIC insures the Alpart alumina operation in Jamaica and has within the last year insured an expansion of the Alpart plant. The entire OPIC expropriation insurance on Alpart outstanding is over \$300 million. Yet the plant employs only 1,405 Jamaicans. This represents approximately \$220,000 of capital investment per employee. This project will importantly contribute to Jamaica's foreign exchange earnings. But there is serious question as to whether it was wise for the U.S. Government to encourage the concentration of such a large amount of investment in a single sector in Jamaica. Moreover, this project, though now approximately five years old, has not yet produced any tax revenue for the Jamaican economy.

The General Accounting Office (GAO) statistical study, done at the request of the Subcommittee, indicates that the Jamaican example is not unusual. Of the cases studied under the criteria OPIC itself introduced in July, 1972, 50 percent of the OPIC insured investment projects were rated adverse by GAO with respect to their impact on local LDC capital mobilization (equity participation by local capital);

27 percent of the projects were rated adverse with respect to their effects on local LDC suppliers or downstream industries; and 27 percent of the projects were rated adverse with respect to their effect on local LDC employment and skill creation. Most of the rest of the projects had only slight positive impact on these areas.

Testimony by Sean Gervasi, Economic Consultant to the United Nations raised further questions about the impact of aggregate United States corporate investment in the less developed countries. Mr. Gervasi testified:

The point I am trying to make actually is that the so-called development process which has been under way, which has been promoted by the international community in the last 25 years, has precisely not touched the lives of the mass of the population. . . . We have at least implicitly heard today reference to the process of industrialization and development in poor countries, but if 60 percent of the population, at least 60, and it is usually 80 percent, lives at such levels and indeed continues to live at such levels, as the Secretary General of the United Nations said, economic growth does not touch that vast majority of the population, then we are not dealing with development.

These considerations were also reflected in the comments made by Robert McNamara, President of the World Bank, in his April 14, 1972, speech in Santiago, Chile, before the United Nations Conference on Trade and Development, in connection with Brazil, a country which has attracted a large amount of foreign investment and achieved a high growth rate:

In the last decade Brazil's GNP per capita, in real terms, grew by 2.5% per year, and yet the share of the national income received by the poorest 40% of the population declined from 10% in 1960 to 8% in 1970, whereas the share of the richest 5% grew from 29% to 38% during the same period. In GNP terms, the country did well. * * * But throughout the decade the poorest 40% of the population benefitted only marginally.

The multinational corporate investment which has occurred does offer the hope of future tax flows to the LDCs, but as Stanford Ross, Former Assistant Tax Legislative Counsel, Treasury Department, testified, in order to attract foreign investment LDCs generally give the multinational investor such long term relief from local taxes that little or no tax revenue is generated for five to ten years. This was confirmed by the General Accounting Office Study of OPIC (GAO (7-9)).

The testimony received is indicative of the fact that concepts of "development" are changing. Many economists no longer consider Gross National Product to be the critical yardstick. Increasing attention is being focused on the distribution of the benefits of economic growth: within a given society which groups get what share of the pie? Are the rich getting richer and the poor getting poorer? There is thus increasing doubt with respect to the conventional theory that "more is better" and that foreign investment is necessarily a positive factor in the development process of the poor countries.

The Subcommittee is not yet prepared to accept this conclusion. But it is no longer prepared to embrace the alternative theory that foreign investment is, in and of itself, a "good" thing since it contributes to aggregate Gross National Product growth of the economy. What this agnostic conclusion leads to is caution: caution in propounding any particular theory of development and, therefore, skepticism

about U.S. Government efforts to foster "development" in other countries.

In light of the conflicting views about the real contributions, or lack thereof, of foreign private investment to the development of the poorer countries, and the evidence that the bulk of the 17 OPIC guaranteed projects studied by the GAO¹ have had little development or growth impact, we cannot conclude that the OPIC investment insurance program is justified on the grounds that it is an aid to development of the poorer countries. Rather, the program is used by American corporations as an insurance program which lowers their risk against political aberrations in less developed countries. If the program is to be continued it should conform to the rationale for which it is used, an insurance program and not a development aid program.

IV. DOES THE EXISTENCE OF THE INVESTMENT GUARANTEE PROGRAM ADMINISTERED BY GOVERNMENT OR QUASI-GOVERNMENT AGENCIES LEAD TO A GREATER DEGREE OF INVOLVEMENT ON THE PART OF THE UNITED STATES IN THE INTERNAL POLITICAL AFFAIRS OF HOST COUNTRIES?

There can be little doubt that the existence of the investment guarantee program, as presently and previously administered by government or quasi-government entities can lead to a deepening involvement on the part of the United States in the internal affairs of the developing countries. This fact was evidenced in the case of Jamaica, but it was evident as well in connection with Taiwan and Chile.

A. THE JAMAICA CASE

The Subcommittee was led to conduct a special investigation of the insurance program in Jamaica because the amount of guarantees issued in that country—in excess of \$500 million—appeared to be large in relationship to the size of the country. Moreover, virtually all the guarantees pertained to one industry, alumina and bauxite. Bauxite is considered a strategic material and the United States imports approximately 87 percent of its bauxite/alumina needs and almost half of that comes from Jamaica. Before the House Foreign Affairs Subcommittee on International Economic Policy in connection with OPIC, advocates of OPIC specifically cited bauxite/alumina guarantees in Jamaica as an example of how the investment guarantee program helps to assure the United States of a secure source of this strategic raw material; thus, the subcommittee chose Jamaica as a test case of the thesis that the guarantee program accomplishes the purpose of assuring the United States a secure source of a vital raw material without leading to a deepening political involvement in the affairs of host countries.

In 1968 OPIC's predecessor agency, AID, issued guarantees against expropriation to Kaiser Aluminum Company, the Reynolds Metals Company, and the Anaconda Company to cover their investments in an alumina smelter and related bauxite mining facilities in Jamaica. The original capacity of the smelter was 950 thousand tons of alumina

¹ The GAO used the criteria which OPIC itself had introduced at a date following the insuring of those projects.

per annum. The amount of the 1968 guarantees, by company, were as follows:

	<i>Million</i>
Kaiser Aluminum Co.....	\$61.6
Reynolds Metals Co.....	86.2
Anaconda Co.....	87.1
Total	234.9

The three companies had formed a Delaware partnership. Alpart, consisting of individual subsidiary Delaware corporations, all 100 percent owned by the affiliated parent companies to operate and manage the smelter.¹

Subsequently, Kaiser and Reynolds sought additional guarantees for an expansion of the smelter by an additional 350 thousand tons which would bring the rated production capacity up to an annual level of one million three hundred thousand tons of alumina. The amount of the additional guarantees sought by Kaiser and Reynolds, respectively, were \$61.6 million and \$24.2 million, which would have brought the total guarantees issued for this particular project² to Kaiser up to \$133.2 million and to Reynolds up to \$110.4 million.

In addition to the Kaiser and Reynolds requests for additional guarantees, the Aluminum Company of America (ALCOA) and the Revere Brass Company had applied for guarantees, respectively, of \$98.6 million and \$77.2 million, also for the purpose of covering investments in alumina smelters in Jamaica.

By the fall of 1969, then, in addition to the guarantees already issued in 1968, AID had under consideration additional guarantee applications amounting to a total of \$261.6 million, all for investments in alumina/bauxite facilities in Jamaica.

The AID administrator at that time was John Hannah, later to become a member of the Board of OPIC. Within AID, the administrator of the guarantee program was Mr. Herbert Salzman, later to become Executive Vice President of OPIC. The attorney in charge of the negotiations of the Jamaican guarantees was Mr. Marshall Mays, who subsequently became the General Counsel of OPIC and presently is President of OPIC. Hence, despite the change in form of the administering agency of the guarantee program, there has been a large element of continuity in the personnel which dealt with the Jamaican case in both AID and OPIC.

A new element in the case, however, was the appointment, in the Fall of 1969, of Mr. Vincent deRoulet as the United States Ambassador to Jamaica. Mr. deRoulet was a non-career Ambassador whose previous experience had been in advertising in New York City. In testimony before the Subcommittee he related that, upon reviewing the existing level of guarantees authorized for bauxite/alumina projects in Jamaica, and the additional guarantees it was proposed that OPIC issue, he was appalled. In his opinion, the proposed \$500 million level of guarantees in this one industry, in a single, small country, was unsound. In early 1970, while in Kingston, Jamaica, he received a copy of an internal State Department memorandum, written in Wash-

¹ Alpart can be viewed as a means for the aluminum companies to restrain trade at the source of supply. OPIC should have taken care to explore this possibility under § 231 (h) of the Foreign Assistance Act.

² In 1968 Reynolds had received a \$12 million guarantee for another investment in Jamaica.

ington, indicating State Department approval of the issuance of the additional guarantees and showing that he, deRoulet, concurred in this approval. The Ambassador immediately communicated his objection to being recorded as concurring in this decision. Ambassador deRoulet testified that:

a. He had been informed in Jamaica in May of 1970 by Kaiser's resident chief engineer on the Alpart project that the Alpart partners were so far committed to the expansion (raising production capacity from 950 thousand to one million three hundred thousand tons) that they would have to go ahead with the expansion regardless of whether or not AID issued the additional investment guarantees and that he communicated this observation to the State Department in Washington;

b. He felt himself under considerable pressure from the companies concerned, OPIC officials and the Government of Jamaica, to give his concurrence to the issuance of the guarantees;

c. In July of 1970, against his better judgment, but because he considered the ultimate issuance of the guarantees a foregone conclusion, he withdrew his objections to the issuance of the guarantees, but only after he felt that he had obtained certain assurances from the Government of Jamaica and the companies as to the future behavior of both parties.

When queried by Senator Case, he acknowledged that a refusal to concur in the issuance of such guarantees would have been interpreted by the Jamaican Government as an indication of no confidence on the part of the United States Government in the Jamaican economy and political leadership. Ambassador deRoulet further testified that he felt a heightened responsibility to assure that Jamaican Government policies were favorable towards the United States investors in the bauxite/alumina industry because of the potential financial liability of the United States Treasury, as a consequence of the fact that OPIC's liability (as with that of AID before it) is backed by the full faith and credit of the United States Government.

In September 1970, with Ambassador deRoulet's objections withdrawn (Deputy Assistant Secretary of State Hurwitch testified that had such objections not been withdrawn, he would have overridden them in Washington and approved the issuance of the full amount of the guarantees), the additional \$61.6 million in guarantees which had been applied for by Kaiser, Reynolds, Alcoa and Revere was approved.

In 1970 guarantee contracts were issued for shorter periods than the original guarantees signed in 1968. Furthermore, they provided for financial exposure by OPIC to decline with the passage of time. Nevertheless, in 1973, OPIC was administering guarantees against expropriation to the five companies—Anaconda, Kaiser, Reynolds, Revere Brass, and Alcoa—which total in excess of \$525 million.

Confronted with this situation, Ambassador deRoulet undertook to play an active role in manifesting United States Government concern to the leadership of the two major Jamaican political parties over Jamaican policies toward the bauxite/alumina industry. In 1972, he attempted to convince the Jamaican leadership not to make the 100 percent U.S. company ownership of the Jamaican bauxite/alumina industry—described by one of the leaders of the two contending parties as the key political question in the forthcoming Jamaican parliamentary elections—a political football in that election. Certain that

the party in power would not bring up the issue if the opposition did not, deRoulet approached the PNP candidate Michael Manley and sought to persuade him to keep the bauxite question out of the campaign.

In return, deRoulet testified, "I told him I was prepared to give him my commitment as a gentleman . . . in exchange for these commitments from him . . . we would not, repeat not, interfere in his elections in any way. . . ." Ambassador deRoulet also argued that expropriation would not be in Jamaica's economic interest. Such intervention, in fact, was never contemplated, according to the testimony of both Hurwitch and deRoulet, although genuinely feared by important Jamaican political leaders. deRoulet played upon this fear to protect United States bauxite/alumina interests from nationalization. His objective was accomplished. Though Manley was elected, the expropriation issue was never raised during the campaign.

It would be baseless to contend that without the investment guarantee commitments and the potential United States Treasury liability behind them, the U.S. Ambassador in Jamaica, whoever he might be, would not be concerned about half a billion dollars of investments by U.S. companies in raw material facilities critical to the United States economy. But the testimony also evidenced the fact that, without such guarantees, the companies might not have invested in such a concentrated fashion in Jamaica, or if they had, they might have done so in a manner designed to bring Jamaican and other sources of capital into the investment schemes, thus diffusing their political risks. Through the guarantee program those risks have been assumed, instead, by the U.S. Government. And, as Ambassador deRoulet candidly testified, the assumption of that risk, with its consequent potential financial liability of the United States Treasury, imposed an additional burden of responsibility on the U.S. Embassy in Jamaica and led it into the internal politics of Jamaica.

But the perverse political effects of the OPIC program in Jamaica were not limited to this instance. Approval or disapproval of individual guarantees tends to become a symbol of whether the United States Government has confidence in, or approves of, a particular government. In July, 1972, Ambassador deRoulet was informed that OPIC was considering issuing a further guarantee in the amount of approximately \$8 million for a bauxite mining project by the Reynolds Metals Company. Whether the issuance of this guarantee would have constituted a net increment in the amount of OPIC insured Jamaican investment guarantees is in dispute. What is not in dispute, however, is that the Ambassador vigorously protested even the consideration by OPIC of this potential new commitment.

Upon learning of the Ambassador's opposition to the issuance of these guarantees, Reynolds dispatched a representative to Jamaica. This representative, in the absence of deRoulet, met with the Deputy in Charge of Mission and the Economic Counselor of the U.S. Embassy in Kingston. As Ambassador deRoulet related it, the Reynolds representative advised the Embassy officials that unless the Embassy withdrew its objections to the issuance of the guarantee, Reynolds would be forced to advise the Jamaican Government that the Embassy refusal constituted an Embassy judgment of lack of confidence in the Jamaican economy and political leadership. Furthermore, Reyn-

olds indicated it would have to inform the Jamaican Government that, without the OPIC insurance, additional concessions would be necessary if Reynolds was to go forward with its bauxite mining investment.¹

Ambassador deRoulet testified that upon hearing of this threat, he felt compelled to write a personal letter to Prime Minister Manley explaining that his opposition to the issuance of further investment guarantees for bauxite/alumina projects in Jamaica was not occasioned by a lack of confidence in Jamaica. Rather, it reflected a concern with the amount of guarantees issued in Jamaica for one industry, bauxite/alumina; a concentration which he considered not in the best interests of either Jamaica or the United States. Ambassador deRoulet's letter observed that, upon his arrival in Jamaica, he found that the behavior of the companies had been deplorable, at least in part, because of their sense of complacency brought about by the existence of the guarantees, and that he thought it was advisable for the companies to have some of their funds at risk so as to provide them with an incentive to be more flexible in accommodating to Jamaican conditions. Hence, what should have been a business decision as to whether to increase the amount of investment guarantees in Jamaica in bauxite/alumina became a major political issue between the United States and Jamaican Government.

The story of the investment guarantee program in Jamaica, whether administered by AID or OPIC, is thus, one of involvement on the part of the United States in the internal politics of Jamaica. The companies attempted to use the program to promote an identity of interest between the U.S. Government and the corporations. The United States Embassy was propelled into a volatile issue in Jamaican politics—the American ownership and control of the bauxite/alumina industry.

B. TAIWAN

Jamaica is not an isolated case. In Taiwan existence of the investment guarantee program is interpreted as a symbol of American support for the current Taiwanese regime.

Acting Assistant Secretary of State Herman Barger was asked what would be the political effect in Taiwan if OPIC decided that Taiwan no longer qualified as a developing country and that, therefore, the investment program in that country should be terminated. Mr. Barger's response is illuminating:

Mr. BLUM. Mr. Barger, If OPIC insurance were to be cut off from Taiwan by OPIC in the next number of months, because OPIC, for business reasons, made a judgment that it was imprudent to continue insuring investments in Taiwan, would the Government of Taiwan consider that a major blow in the sense that it signaled the lack of American support for Taiwan?

Mr. BARGER. Yes, I believe that that would be the case, if Taiwan were cut out of the program itself this would be read in that way as a lack of confidence.

A Senate staff investigator who visited Taiwan in connection with the OPIC inquiry was advised by Taiwanese officials that they were certain of long-term U.S. support for Taiwanese independence by virtue of the existence and continued issuance of U.S. investment guarantees in that country. If the United States did not intend to support Taiwanese independence, they noted, why would it continue to in-

¹ Mr. Reynolds disagreed with the Ambassador's interpretation of the role of his company.

crease its potential financial liabilities there through the investment guarantee program? In effect, then, in the minds of the Taiwanese, U.S. guaranteed investments serve as a symbolic hostage which insures continued U.S. political support for Taiwanese political objectives.

Short of terminating the program on a worldwide basis, according to Mr. Barger, for fear of creating disruption of Taiwan, the U.S. Government for political reasons must maintain an investment insurance program in Taiwan.

C. CHILE

The temptation to use the existence of the U.S. Government sponsored investment guarantee program as a reason for intervention in the political affairs of developing countries is confirmed by the testimony received by the Subcommittee in the hearings held in connection with the activities of the International Telephone and Telegraph Company in Chile. In that case, John A. McCone, former Director of the CIA and, in 1970, a Director of the ITT, testified that in conversations with high U.S. Government officials, he presented the fact that the U.S. Treasury would ultimately be liable for payments of hundreds of millions of dollars under existing guarantee agreements as one reason for United States Government intervention to prevent Salvador Allende Gossens from becoming President of Chile. Edward Korry, then U.S. Ambassador to Chile, similarly testified that in warning Washington of the perils of an Allende government in Chile, he noted the potential cost to the United States Treasury as a consequence of anticipated expropriations of properties of U.S. companies covered by the investment guarantees issued by OPIC's predecessor, AID.

In fact, the Allende government did expropriate such properties, resulting in potential OPIC losses that could run up to \$339,000,000.

* * *

It is important to emphasize that the political complications which arise out of the existence of a U.S. Government sponsored and administered investment guarantee program are not primarily a function of administrative inadequacies on the part of OPIC or its predecessor, AID. Rather, they are inherent in the nature of the program. As long as the full faith and credit of the Treasury stands behind the compensation of expropriated guaranteed investment, and OPIC's reserves are as lean as they are today, the U.S. Government has a direct financial stake in the host country's policies towards investment. That the companies recognize the political uses to which the program can be put is evidenced not only by the Reynolds and ITT examples in Jamaica and Chile, respectively, but also by the testimony of Mr. William P. Hobbs, Vice President and Treasurer of the Kaiser Aluminum Company. Mr. Hobbs was asked whether a guarantee program administered by the private insurance industry would meet the needs of the companies as well as one sponsored by the government. Mr. Hobbs demurred. He questioned whether a program administered by the private sector would prove as effective as a U.S. Government sponsored program, since it would not link the companies and the Government so directly together. This identity of interest,

Mr. Hobbs testified, makes foreign governments more hesitant to adopt policies adverse to the investing companies.

We doubt, however, that this identity of interest, achieved through the instrumentality of the guarantee program, as presently administered, is good, in the long run, either for the corporations themselves or the U.S. Government. The program seems more likely to embroil the United States in the internal politics of host countries than would otherwise be the case. The assumption of the political risks by the U.S. Government, as Ambassador deRoulet noted, may lull the companies into a false sense of security and induce them not to make the necessary adjustments to changing local conditions when a healthy relationship between host country and companies would require it.

Moreover, it is the belief of the Subcommittee that government insurance may at times increase the likelihood of expropriation. Expropriation is viewed by some radical governments as a means of striking a blow at the United States Government. This was recently demonstrated by the expropriations in Libya and Iraq. Where investment is insured by the U.S. Government, expropriation becomes a direct rather than an indirect blow at the government.

V. OPIC'S FINANCIAL CONDITION

A compilation of OPIC's own figures and the GAO study on OPIC provides a financial overview of OPIC's insurance program.

OPIC charges approximately a 1½% premium for combined expropriation (usual premium 0.6%), war risk (premium 0.6%), and inconvertibility (premium 0.3%) insurance. Under a recent change in its rules OPIC may charge a lower expropriation premium for debt investments (0.4%) and a higher premium for equity investment in large and/or especially sensitive fields (0.8%), although the overwhelming bulk of OPIC insurance contracts outstanding are at the 1½% rate. Slightly higher or lower rates may be charged—up to 0.2% when there are risk-increasing factors, such as industry concentration within a country or risk-decreasing factors, such as local investor participation are present. OPIC premium rates are higher than those charged by AID and it no longer offers stand-by insurance (the option to pay a much lower premium for the right to purchase insurance at the end of any year). Contracts originally issued by AID, however, have not been renegotiated, so that under the contracts OPIC inherited, there is still a large amount of stand-by coverage outstanding.

Currently, OPIC has \$3 billion of inconvertibility insurance outstanding (\$2.1 billion in stand-by and \$0.9 billion in current). It has received a total of \$38.6 million in premiums and has recovered all the claims it has paid. There is \$2.8 billion of war risk insurance outstanding (\$2 billion current and \$0.8 billion of stand-by). Over the life of the program, \$56.1 million of premiums have been paid. The net claims payment has been \$623,000.

Thus, both the inconvertibility and war risk insurance programs have been major moneymakers.

Expropriation insurance is a different story. Currently, there is \$3.3 billion of expropriation insurance outstanding (\$2.4 billion of current and \$0.9 billion in stand-by). Over the life of the program,

\$84.6 million have been collected in premiums and a net of \$28.1 million have been paid out in claims. However, there are currently outstanding against OPIC approximately \$369 million in unsettled claims¹ and guarantees.²

These claims are against current total insurance reserves of \$146.5 million. The two largest claims (\$92.5 million by ITT and \$154 million by Anaconda) arose out of Chilean expropriations. Likewise, all but about \$8 million of some \$100 million in outstanding guarantees arose from Chilean expropriation. Unfortunately, if Chile's default on the first payment of the Braden Copper Company guarantee is indicative, OPIC may end up having to pay out a major portion of its outstanding reserves just to cover its guarantees. If the pending ITT and Anaconda arbitrations (involving claims which total about \$246.5 million) heavily favor the companies, OPIC could easily find itself deeply in the red.

OPIC contends that its financial condition is not as bad as it appears because it has been advised by outside counsel that its denial of the ITT and Anaconda claims is soundly based. But, at least in the case of ITT, the soundness of OPIC's case is attributable to a substantial degree, to the facts revealed in the ITT/Chile hearings of this Subcommittee. Marshall Mays admitted that prior to these hearings OPIC was not informed of the attempts by high officials of ITT to induce the C.I.A. to intervene in the internal political processes of Chile so as to prevent the election of Salvador Allende Gossens as President, facts which clearly were relevant to a determination of OPIC's liability to ITT.

OPIC's financial viability is in doubt and it may well have to rely on Congressional appropriations or Treasury payments based on the full faith and credit clause of OPIC's authorizing legislation to bail it out. Indeed, as the following table indicates, by ordinary financial standards OPIC is on the brink of insolvency. If OPIC were a private insurance company, under generally accepted accounting principles it would have to set aside a reserve against the outstanding claims. This reserve would likely reduce OPIC's available reserves to a negative figure.

¹ Claims on OPIC are amounts which OPIC maintains it does not have to pay. These are currently in arbitration or soon will go to arbitration.

² Guarantees are amounts which expropriating governments have agreed to pay and which OPIC will pay if the expropriating government defaults.

OPIC's Financial Position

Maximum potential contingent liability (netting out the Lloyds reinsurance coverage)-----	¹ \$2, 776, 000, 000
Total insurance reserves-----	² \$142, 563, 000
Insurance reserves as a percentage of maximum potential contingent liability-----	5 percent.
Total claims and guarantees outstanding-----	³ \$369, 000, 000
Total claims and guarantees as a percentage of maximum potential contingent liability-----	14 percent.
Total insurance reserves minus total claims and guarantees outstanding -----	(\$227, 437, 000)

¹ This figure was computed by selecting the highest of the three coverages available for any particular contract (expropriation, war, or inconvertibility) and eliminating the lesser coverages. OPIC's expropriation liability is reinsured by Lloyd's of London to the extent of \$421 million. This reinsurance was deducted country-by-country before determining which of the three coverages was highest. Figure is for June 30, 1973 and includes only current insurance, not the substantial amount of stand-by insurance.

² As of June 30, 1973.

³ As of March 31, 1973.

Statistics supplied to the Subcommittee by OPIC, disclose that if OPIC had not received \$81,250,000 in appropriations since fiscal year 1970 it would currently have only \$58,250,000 in its insurance reserves instead of \$139,500,000.

There is no evidence that without appropriations OPIC would have been operating at a loss. However, its precarious financial position becomes even more clear when its earned reserves (i.e. reserves minus appropriations) are contrasted with outstanding claims and guarantees. It should be noted that \$50 million in insurance reserves were removed by Congress from the AID political risk insurance reserve in 1969 and transferred to the Housing Guaranty Program.

SUMMARY OF INSURANCE FEES, APPROPRIATIONS, CLAIM PAYMENTS, CLAIM RECOVERIES AND ADMINISTRATIVE EXPENSES

[Fiscal year 1949 through March 31, of fiscal 1973]

Fiscal year	Insurance fees	Resource adjustments	Appropriations	Claims payment	Claims recovery	Administrative expenses (estimated)
1949	\$16,763					
1950	172,609					
1951	205,663					
1952	277,584					
1953	216,680					
1954	205,662					
1955	235,687					
1956	330,873					
1957	416,515					
1958	654,482					
1959	1,367,334					
1960	1,356,227					
1961	1,672,830					
1962	2,293,860		\$27,861,484	\$650,000		
1963	2,926,017		30,000,000			
1964	4,674,441					
1965	7,767,432					
1966	9,867,673			205,947	\$193,629	
1967	9,117,164			128,247	97,471	
1968	14,546,713			¹ 438,464	264,838	
1969	19,721,714	² (\$50,000,000)		³ 9,737,000		
1970	21,537,152		37,500,000	⁴ 5,426,718	60,000	\$962,612
1971	24,053,861		18,750,000	345,230	349,899	1,747,876
1972	26,828,962		12,500,000	1,970,317	1,327,698	2,784,464
1973 ⁵	19,139,785	⁶ 11,809,131	12,500,000	17,469,582	135,008	1,851,188
Subtotal	⁷ 169,618,683	11,809,131	⁸ 139,111,484	36,371,505	2,428,543	⁹ 7,346,140
Adjustment	(50,000,000)					
Total	119,618,683					

¹ Includes \$111,160 of guaranty claims.

² Insurance fees transferred by Congress to AID housing guaranty program.

³ Includes \$6,713,000 of guaranty claims.

⁴ Includes \$5,426,718 of guaranty claims.

⁵ Through March 31.

⁶ Interest earned by OPIC on insurance fees, January 1970 through March 1973 (estimated).

⁷ \$30,888,516 of fee earnings allotted by board of directors to guaranty reserves.

⁸ \$44,111,484 of appropriations allotted by board of directors to guaranty reserves.

⁹ Administrative costs are not available prior to fiscal year 1970 as AID and other predecessor agencies did not segregate its administrative costs against specific programs.

Realizing the probable inadequacy of its reserves, OPIC negotiated a payout arrangement to extend over several years to cover the expropriation of the Braden Copper Company, a wholly owned subsidiary of Kennecott Copper Corporation. Braden's insured investment consisted of 5¾ percent promissory notes issued by Sociedad Minera El Teniente and guaranteed by the Government of Chile. The notes had a face value of \$74.7 million in December 1972 and were to be paid in equal semiannual installments of principal through 1986.

Essentially, OPIC purchased these notes from Braden, established a trust for the notes, and borrowed most of the money to pay Braden at $6\frac{3}{4}$ percent, issuing short term notes with payments due over the next five years and a final lump-sum payment due in 1978. GAO found that this arrangement, when entered, would cost OPIC about \$2.5 million more than the alternative of making a lump-sum payment. However, the Treasury note interest situation which has developed since the GAO report makes it probable that OPIC will be able to do as well, or even better, under this arrangement.

If Chile continues to default on its payments of the notes held by OPIC, 60 percent of OPIC's annual premium fees, on the basis of current collections, will be required to pay the Braden guarantee alone.

It is the opinion of the Subcommittee, moreover, that OPIC's reserves are placed in unnecessary jeopardy by the arbitration clause § 237(i) of the Foreign Assistance Act. This clause is interpreted by OPIC to require that it submit all contract disputes to arbitration rather than the U.S. courts. The Subcommittee recommends that this clause be changed to allow OPIC to take disputes with the insured companies into the U.S. courts in appropriate cases and will propose legislation to this effect.

OPIC has requested an additional appropriation of \$72,500,000 for this fiscal year. It is up to the Appropriations Committee to report on this request. Our hearings have given us a view of the merits of the request and this report furnishes us with an appropriate vehicle for sharing that view with the Appropriations Committee.

OPIC's reasoning for their request of \$72,500,000 is that this amount represents \$50,000,000 of AID reserves plus interest which were removed from the AID political insurance reserve fund and used to fund a special reserve for the Latin American Housing Guarantee Program. However, this argument fails to recognize that OPIC and its AID predecessor received \$81,250,000 in Congressional appropriations for the fiscal years 1970 to 1973 inclusive. Thus, recent Congressional appropriations have much more than covered the transfer of AID reserves.

OPIC has made the claim that it is a self-sufficient agency. The Subcommittee believes that this was not completely true in the past and is not completely true today. OPIC should not be allowed to obscure its true financial position behind an argument based on the growth of reserves which, to a significant extent, have actually increased because of yearly appropriations. Rather, OPIC should be given new appropriations only when its own reserves are depleted. This policy would force OPIC to demonstrate its ability to operate as a self-sufficient agency.

VI. OPIC'S MANAGEMENT RECORD

OPIC representatives base their defense of the insurance which they have written on the contention that they need more time to restructure the portfolio which OPIC inherited from AID. The AID issued guarantees were heavily concentrated in a very few countries, a few sectors and a few large corporations. It is true that OPIC recently has intro-

duced significant management reforms in several areas and it should be commended for so doing. But many of the flaws which characterized the AID program also characterize OPIC.

A. THE PROFILE OF THE PROGRAM

One of the main reasons given for separating OPIC from the rest of the AID program was that, if the investment guarantee program were managed by an entity organized as a business corporation, the program would be "much more extensively used and it will be used with a much more gifted approach to the situation." But the program has not been more extensively used; indeed, it has been less extensively used than it was when managed by AID. Since OPIC came into being, the absolute amount of guarantees issued by OPIC has been substantially less than that issued by AID, by a 49 percent decline in the annual average amount under OPIC. The percentage of total U.S. corporate investment in developing countries covered by guarantees has also been declining. In 1969, the amount of original investment covered by OPIC was 93 percent of the annual change in net book value of U.S. direct investment in LDCs. In 1971 only 23 percent of the investments were insured.¹

Moreover, with one major exception, the profile of the covered investment, has been remarkably similar to that of the investment guarantee program when managed by AID. In terms of geographic coverage, under AID management, 57 percent of the coverages issued by AID were concentrated in eight countries.

	Percent
Chile -----	13.7
Korea -----	9.7
Jamaica -----	8.2
Brazil -----	5.7
Argentina -----	5.6
Dominican Republic -----	5.2
India -----	4.9
Philippines -----	4.2

Under OPIC management, the degree of concentration has been substantially greater since 83.3 percent of the issued coverage has been concentrated in eight countries.

	Percent
Korea -----	23.2
Indonesia -----	14.8
Brazil -----	13.4
Taiwan -----	7.8
Botswana -----	7.2
Singapore -----	6.2
Philippines -----	5.7
Israel -----	5.0

In effect, then, under OPIC management there has been a shift in coverage from Latin America to Taiwan, Korea, and Singapore. But under both AID and OPIC management, investment guarantees have been highly concentrated in relatively few countries. OPIC argues that its concentration is irrelevant because the combined AID-OPIC portfolio was diversified. But as the CRS report pointed out, this argument is without merit since five of the eight most heavily insured

¹ These figures do not include investments in petroleum.

countries under OPIC showed larger-than-average concentration in the AID portfolio (CRS at III). In line with our earlier conclusion this demonstrates that OPIC is unable to channel the placement of investment in LDCs.

The principle of concentration has been equally true with respect to major beneficiaries of the guarantee program as is shown in the following table:

"FORTUNE 500" SHARE OF AID AND OPIC INSURANCE

	Volume (millions)	Percent of total
Aid-issued insurance:		
Fortune top 150 corporations and top 25 commercial banks.....	\$8, 414. 8	63
Top 151 to 500 corporations and 26 to 50 banks.....	2, 041. 5	15
Total Fortune list.....	10, 456. 3	78
Corporations not on Fortune list.....	2, 907. 6	22
Grand total.....	13, 365. 9	100
OPIC-issued insurance:		
Fortune top 150 corporations and top 25 commercial banks.....	856. 1	61
Top 151 to 500 corporations and 26 to 50 banks.....	258. 8	18
Total Fortune list.....	1, 114. 9	79
Corporations not on Fortune list.....	294. 3	21
Grand total.....	1, 409. 2	100

Note: The chart reveals that the largest companies are the most consistent users of OPIC insurance.

The tendency of investment to come from a limited number of companies and to flow to a limited number of countries seems to have a momentum of its own which is not changed by the character of the administrative agency.

B. METAL MINING—THE EXCEPTION

The one area where OPIC has made a significant change in the profile of issued guarantee coverages from AID is metal mining. OPIC, unlike AID, has issued very little insurance to corporations mining metal. Only about three percent of OPIC's insurance portfolio is in this area, while about 25 percent of the AID issued insurance was issued for this category. This trend is consistent with a desire to minimize high risk areas of investment in accordance with sound risk management principles: foreign equity ownership for extractive industries has proven to be a prime target for expropriation. But it cannot be reconciled with the allegation that OPIC insurance for extractive industries helps guarantee the United States a source of supply of vital raw materials. OPIC cannot argue, on the one hand, that they are minimizing risks and, therefore, not insuring projects in high risk sectors such as metal mining and, on the other hand, argue that the investment guarantee program is essential to assure the United States of a secure source of raw materials.

C. OPIC AND THE BALANCE-OF-PAYMENTS

OPIC's impact on the short-run balance of payments is another example of how its administrators must balance contradictory mandates. OPIC has a legislative mandate to consider the balance-of-

payments effect of those investments it insures. However, Herbert Salzman, Executive Vice President of OPIC, testified that OPIC does insure off-shore subsidiaries of United States multinational corporations, even though, as testified by Mr. Stanford Ross, Former Assistant Tax Legislative Counsel, Treasury Department, those subsidiaries may indefinitely withhold the return of profits to the United States from investment abroad, thereby worsening the United States balance-of-payments position.

It was brought out in the testimony of John Sagan, Vice President and Treasurer of Ford Motor Company and William Meehan, Assistant Treasurer of Motorola, that (1) there is no tie-in requirement that OPIC-insured companies purchase U.S. products; (2) that OPIC marginally encourages an outward flow of capital from the United States by encouraging industries to invest abroad; and (3) on balance OPIC, at least in the short run, tends to worsen the balance-of-payments problem.

Similarly, the GAO Study found that many OPIC-insured electronic projects abroad sell a large percentage of their products to the United States, causing a net dollar outflow from the United States which probably amounts to several hundreds of millions of dollars. (GAO at 53.) It should be noted, in this regard, that many of the projects reviewed by the GAO are not projects which OPIC inherited from AID but rather projects where OPIC was the original insurer.

An OPIC insurance application form introduced in March, 1972, formulates criteria for determining what the host-country development and the United States balance-of-payments impacts of applicants' investments will be. The General Accounting Office (GAO) report on OPIC indicates that, even with this new questionnaire, OPIC often insures projects which are detrimental to the United States balance-of-payments. OPIC, in order to further its primary objective of writing insurance for investments in LDCs, is bound to encourage an outflow of capital from the United States and thereby worsen, at least the short run, balance-of-payments problems of the United States. Its impact on the long term balance-of-payments, i.e. whether investments in the Less Developed Countries will eventually return as much, or more, capital to the United States than sent out, is still unclear. What is clear is that OPIC management cannot avoid encouraging capital outflows and still write insurance.

D. OPIC'S IMPACT ON LABOR

Benjamin A. Sharman testified in behalf of the International Association of Machinists about labor's concern over the loss of jobs from "runaway industries," i.e. those industries which leave the United States in complete or partial replacement of going concerns in the United States, and then export their products back to the United States in direct competition with U.S. production. Similar concern was expressed in a statement submitted for the record by the AFL-CIO. OPIC policy guidelines provide that, although insurance may be issued covering industries abroad that will export their products to the United States, an investment in a runaway industry will not

be eligible unless there are counterbalancing advantages to the United States. In the case of partial replacement of a U.S. production facility, OPIC assistance may be given only if it is determined that such a move is reasonably calculated to preserve the remaining United States employment by aiding the enterprise in maintaining a competitive position in the U.S. market. OPIC assistance will not be given if an unfair labor practice charge based on the shutdown is either pending or has been resolved against the company. (GAO-50.)

These guidelines should, in theory, protect United States labor. However, the GAO study found that the OPIC files on runaway industries did not have information crucial to the rational determination of whether the move overseas was actually necessary to protect the United States industry from foreign competition. For example, the files did not contain (1) a precise description of the product manufactured overseas and the extent of competition with United States production; (2) information on whether the plant could have operated profitably in the United States; or (3) an analysis of the industry's present domestic and international structure.

OPIC assessment in this crucial area appears to rely entirely on information provided by applicant companies. There was no evidence of site inspections after the approval of insurance contracts to determine whether conditions of the contracts were being met. The GAO report notes that OPIC intended to introduce revised procedures to more closely monitor this aspect of its performance. But it is difficult to see how this could be accomplished without a major change in OPIC's organization and additional personnel to permit more frequent supervision of projects which have received investment guarantees.

E. GUARANTEES OF INVESTMENTS IN EASTERN EUROPEAN COUNTRIES AND SOUTHEAST ASIA

Senator Church's questioning of GAO witnesses brought out the fact that OPIC is now authorized, under a provision of the FAA, to insure United States investment in Romania and Yugoslavia. Senator Church summed up this line of questions by stating:

... given what we know about the administration of the OPIC program, the large American companies, General Motors, Ford, ITT, could enter into a contractual arrangement with the Communist Government of Romania and if that government defaulted in its promise [to pay] ... the United States Government could be left holding the bag.

Mr. Hylander of the General Accounting Office responded, "Yes, they would be liable, certainly."

There is no legislative history to which we can refer with respect to the reasons for this authority. It is difficult to see how Yugoslavia and Romania qualify as developing countries. We find no convincing reason why the U.S. Government should, in effect, guarantee contract compliance by communist governments. We welcome economic links that strengthen the prospects of peaceful coexistence between the United States and the Eastern Bloc countries. But if corporations wish to invest in communist countries in Eastern Europe, they should do so at their own risk and not at the risk of the U.S. Government. Conse-

quently, that provision of the legislation which specifically authorizes investment guarantees to be issued in Yugoslavia and Romania should be stricken.

The Report of the House Foreign Affairs Committee on the Foreign Assistance Act of 1971 opposed the issuance of political risk insurance in Laos, Cambodia or South Vietnam until specific authority for insurance is given by Congress.

OPIC has observed this limitation, but has asked Congress to give it specific authorization to write policies in those countries in the future.

The Subcommittee agrees with the 1971 House Foreign Affairs Committee Report and strongly recommends that OPIC not be given permission to insure investment in those Southeast Asian countries. OPIC's already extremely precarious financial position makes it unwise for it to issue political risk insurance in politically and economically unstable Southeast Asia. Issuance of such insurance would further entangle the United States in Southeast Asian politics at a time when Congress has clearly endorsed the policy of disengagement.

Therefore, it is recommended that the Senate Foreign Relations Committee join the House Foreign Affairs Committee in requiring OPIC not to issue insurance in North and South Vietnam, Laos, or Cambodia.

F. OVERSEAS PRIVATE INVESTMENT CORPORATION INTRODUCED REFORMS

The Overseas Private Investment Corporation has introduced reforms which have improved the program. In order to reduce the risk of having to rely upon the Treasury in case of catastrophic loss, OPIC has negotiated a reinsurance contract with Lloyd's of London and is presently attempting to interest United States insurance companies in participating in OPIC projects as joint insurers. OPIC has also instituted a varying fee schedule which requires a higher premium for large or sensitive projects and offers a lower premium for investments which are especially helpful to LDC development.

Prior to 1970, the old contracts permitted the investor to shift coverage annually between standby and current status. The standby option was offered at a much lower premium ($\frac{1}{10}$ of one percent vs. $\frac{1}{2}$ of one percent each for war risk and expropriation coverage), and enabled the investor to pick the means he wished to "switch on" or "switch off" the protection offered. During 1970, the insurance contract was revised to the benefit of OPIC, through the elimination of the standby provisions on expropriation and war risks. The Overseas Private Investment Corporation has also raised its fee schedule for new contracts.

OPIC has also made substantial improvements in its standard contract for loan investments. The revision of greatest significance made the insurance applicable to each installment payment rather than to the outstanding principal of the loan. This change will permit OPIC to pay claims over an extended period of time rather than in one large settlement. In addition, the revisions will increase OPIC's fee income because the insured is required to maintain the policy over the entire loan period rather than terminating it when a claim is filed.

A second significant revision is the inclusion of a first-loss deductible clause for intracompany loans, which makes the investor self-insured for the first 15 percent of any claims. This coinsurance feature gives the investor a financial stake in the investment. Improvements in the contract with regard to definitions of war-loss and allocation of foreign government payments were also made (see GAO Report at 27).

The contractual and risk-spreading improvements made by OPIC are standard practices for private insurance companies. A larger role for private insurers as coinsurers or reinsurers would give OPIC the benefit of private insurance company techniques and encourage it to further reform its practices.

VII. THE PRIVATE INSURANCE ALTERNATIVE

The legislation establishing OPIC directed it to investigate the feasibility of turning over part or all of its insurance responsibilities to private companies. (FAA § 240A.) As discussed above, OPIC has already been successful in negotiating a \$421 million reinsurance contract with Lloyds of London.

Since August 1972, a group of insurance company officials, sponsored and assisted by OPIC, has been studying a common effort by OPIC and U.S. Insurance companies.

Mr. Meenaghan, Vice President and Assistant to the Chairman of the Board, Fireman's Fund American Insurance Companies testified that the private insurance companies now meeting with OPIC could produce a firm proposal for private insurance participation with OPIC in from six to nine months. Mr. Sherwood, President of Prudential Reinsurance Company said, "I know there are several major companies who are interested in and have expressed interest (in writing political risk insurance)" Both witnesses agreed that the fastest way for OPIC to get a participation agreement with the United States private insurance companies was for OPIC to arrange a meeting between the top OPIC executives and the top executives of the country's largest insurance companies. The experts were in agreement that various questions, such as the specific premiums to be charged by the private companies, would have to be answered, but that these answers could be found if a concerted OPIC effort to turn over a major share of its program to the private companies were initiated.

Mr. Meenaghan testified that, "(a)t the outset, private insurance companies should have an interest of at least 25 percent in the association. This would provide a large enough share to make the effort economically feasible. . . . The long-term objective would be to reduce OPIC's participation in the association to a smaller percentage, although we do believe it is desirable for OPIC to remain a member of the direct writing association." Mr. Sherwood also spoke in terms of a phase out of government participation in the political risk insurance program. ". . . (I)t is conceivable (the government) could be (completely) phased out as the capacity builds because capacity usually responds to experience. . . ."

Mr. Sherwood stressed the fact that private insurance companies presently view the political risk insurance field as preempted by OPIC and that to get private participation it is necessary to get "a clear mes-

sage from the Senate, the Congress, that you are really interested in getting private insurance into this particular area."

A legislative mandate that OPIC turn over a portion of its insurance burden to private insurance companies by a date certain would be such a message.

Meenaghan and Sherwood suggested that the most acceptable plan to United States private insurance companies—at least until they are able to become familiar with issuing political risk insurance—is for the private companies to be the primary insurers and OPIC to act as a reinsurer against catastrophic loss, perhaps sharing this role with Lloyds of London. Alternatively, it was suggested that OPIC might enter a joint venture with the private companies, each insuring a certain percentage of each new contract.

The insurance company representatives testified that it would be advantageous for them to be able to insure investments in developed as well as under-developed countries.

If this will allow private insurance companies to write more of the political risk insurance in LDCs, it seems, unobjectionable, though OPIC should not itself participate in insurance for investment in developed countries.

VIII. FOUR OPTIONS FOR OPIC

There are four alternative ways to deal with the investment guarantee programs administered by OPIC: (1) leave it essentially as it is; (2) require OPIC to insure only those projects which significantly benefit the development of the host country; (3) terminate the program; (4) turn the insurance function of OPIC over to private insurance companies. The last alternative is clearly the best.

A. ALTERNATIVE ONE: LEAVE THE PROGRAM AS IS

This alternative is unacceptable because OPIC, as it now exists, links the United States too directly with private investment abroad and unnecessarily involves the U.S. Government in the internal political affairs of the host countries without yielding sufficient development gains for the LDCs. There are currently \$369 million of claims and guarantees outstanding against OPIC's approximately \$150 million of reserves. It is quite possible that there will be additional catastrophic losses due to expropriation. Because there is a clause in the existing OPIC legislation which places the full faith and credit of the United States Government behind OPIC, any valid claims which cannot be paid by OPIC will have to be absorbed by the Treasury. Given the precarious conditions of OPIC's reserves, this is a very real likelihood.

The international political problems caused by OPIC are as great as the financial ones. Ambassador deRoulet testified that the immense OPIC insurance coverage of the aluminum industry's investment in Jamaica was the reason for his implying to a candidate for Prime Minister that United States intervention in the Jamaican elections might occur if expropriation of the industry were made a subject of contention in the campaign. In the ITT hearings, it was revealed that ITT used the threat of the impact of expropriation on OPIC's

reserves in one of its attempts to involve the CIA in the Chilean Presidential elections.

These financial and political risks might be partially offset if OPIC were able to yield significant development gains for less developed countries. The academic experts who testified—Dean Peter Gabriel, Boston University Graduate School of Business; Theodore Moran of the Brookings Institution; and Sean Gervasi, an economic consultant to the United Nations—were in agreement that as presently constituted most OPIC insured investments are at best marginal in fostering economic development in the host country. The GAO study discussed earlier reached the same conclusion.

Over three-fourths of United States corporate investment in LDCs occurs without OPIC insurance and a very large portion of the investment which is insured by OPIC would occur even if OPIC insurance were not available. Thus, even if it were clear that private investment in the LDCs fosters development—and this is not at all clear—OPIC's marginal role in inducing such investment is not worth the financial and political risks OPIC presents to the United States Government.

B. ALTERNATIVE TWO: SHOULD OPIC BE CHANGED TO A REAL DEVELOPMENT AGENCY?

One approach to reforming OPIC would be to require it to limit its insurance to those sorts of investments which clearly have a substantial positive impact on the development of the host country. Sweden, the only country which has written strict development criteria into its insurance contracts has been unsuccessful in convincing *any* companies to accept its criteria, even though its premium rates are half those of OPIC insurance.¹

An additional problem with this approach is that it is unclear exactly what type of private investment is most helpful to the development of the LDCs. Professional economists disagree on the impact of various types of private investment and their ideas change from time to time. Theodore Moran and Dean Peter Gabriel both expressed the opinion that to the extent OPIC could influence companies to use management-development contracts and purchase contracts to obtain raw materials while allowing the host country to own all or most of the equity in new enterprises OPIC is a good thing. Unfortunately, it appears that OPIC is unable to persuade many companies to take this approach to foreign investment. Hence, this does not appear to be a feasible alternative.

C. ALTERNATIVE THREE: TERMINATE OPIC

Given the evidence presented the termination of OPIC merits consideration. If OPIC's authorization to issue new insurance were

¹ The Swedish insurance contract requires that the investor must discourage discrimination in employment and promotion, and within limits, "try to break existing discrimination patterns which counteract economic and social development." It must recognize employee trade unions and negotiate labor contracts in good faith. In addition, a company should provide training to increase the employees' productivity and make possible a quick transfer of tasks from foreign specialists to local personnel. Some form of compensation must be provided to workers in case of illness, lay-offs, and retirement. The investor should also take steps to help employees find suitable housing, keep good nutritional and health standards and provide libraries and entertainment facilities.

allowed to run out, as it will on June 30, 1974, if there is no legislative extension, OPIC would be unable to create additional financial and political problems for the government by issuing new policies. This alternative would not forsake U.S. business. Existing insurance contracts with OPIC would remain in effect. Furthermore, as Stanford Ross, Former Assistant Tax Legislative Counsel, Department of the Treasury, testified, United States corporations would still be compensated for losses through tax write-offs. Under existing provisions of the Internal Revenue Code and relevant rulings, expropriation losses incurred by a corporation can be treated, upon occurrence, as deductions against ordinary income and carried forward for a maximum of 10 years. As long as the corporation suffering the loss has income from other sources, the United States Treasury, even without an investment guarantee program, will share the expropriation or other loss, on average, with the corporation up to 48 cents on every dollar lost; this despite the fact that the Treasury, under other provisions of the Internal Revenue Code, realizes no revenue from the profits of foreign investment, unless or until, the profit is returned to the United States.

A complete termination of the investment guarantee program, after 25 years of existence, however, would constitute an abrupt change in direction. Other industrialized countries, largely influenced by the existence of the United States program, have initiated similar guarantee programs of their own. None of these countries have guarantees outstanding in anywhere near the magnitude of the U.S. program. Their terms vary as to the premium rates (generally lower than the United States) and term of coverage (generally shorter than the United States). Thus, an abrupt termination of the guarantee program would remove for American corporations a facility that has now become available to corporations of other countries. It, therefore, would seem advisable to attempt to maintain an insurance program which is just that—an insurance program and, as such, one which can best be administered by the private insurance companies.

D. ALTERNATIVE FOUR: A SWIFT TRANSFER OF OPIC'S INSURANCE FUNCTION TO THE PRIVATE SECTOR OR TO A MULTINATIONAL BODY, SUCH AS THE WORLD BANK

This alternative is the most desirable because it creates a minimal amount of disruption to U.S. corporate investment plans while extricating the U.S. Government from the political and financial risks created by a Government sponsored investment guaranty program. In addition, private nonsubsidized political risk insurance would be a neutral factor in business determination of whether to invest in an LDC or here in the United States. With OPIC insurance, business need not fully bear the risk (through nonsubsidized insurance premium payments) of the foreign investment.

Testimony by several top insurance company executives, plus the fact that Lloyd's of London already has a substantial reinsurance contract with OPIC, demonstrates that the private carriers are willing and able to enter the political risk insurance field. They will bring

with them expertise in determining risks, maximizing the investment returns on premium payments and making intelligent business judgments. Private writing of political risk insurance will dictate that insurance be granted for business reasons—not political—and that premiums sufficient to cover the costs of the program be charged. For example, it is standard insurance practice to rate risks according to how hazardous they are considered to be. A decision by private insurers that particular countries, industries or companies are higher risks than others would not involve the political connotations that are inherent in government decisions to that effect.

The legislation which created OPIC and the debate which preceded it make it clear that OPIC was designed to be an interim step—to provide political risk insurance until private industry was ready to assume the burden. The private insurance industry appears now to be ready and the Subcommittee recommends that OPIC be required to turn over the major portion of future policies to the private sector—or if it proves feasible, a multinational body¹—by a date certain.

OPIC argues that a date certain will hinder its ability to negotiate with the private companies, but this argument is specious. There are several hundred United States insurance companies which insure property loss and which have a capability of forming consortia thereby providing a competitive market. Competition between the consortia for political risk insurance contracts should keep down the price of such insurance. Moreover, the Subcommittee is recommending that OPIC phase out of writing direct insurance by December 31, 1979. This is a reasonable time in which to achieve this objective and will adequately test the willingness of both OPIC and the private insurance companies to accomplish what they both profess: a desire to have the direct insurance program 100% administered under private auspices. The Subcommittee recognizes, however, that OPIC may need to continue as a reinsurer.

In late August, OPIC met with a private insurance company consortium in San Francisco to discuss private participation in both OPIC's present and future portfolios. The private companies expressed a willingness to assume a majority of OPIC's outstanding inconvertibility and expropriation portfolio and a majority of its future inconvertibility and expropriation contracts. They expressed hesitation about writing war risk insurance, apparently because of an adverse experience with war risk insurance at the time of the Spanish American War. However, the Subcommittee is confident that OPIC will be able to convince companies to write war risk insurance. War risk insurance, as reported in detail above, has been OPIC's biggest moneymaker, netting \$55 million in "profits" for the Corporation. This record, if examined carefully by the private companies, should make war risk insurance more appealing to them.

If, this record of profit notwithstanding, the resistance to writing war risk insurance persists, OPIC might arrange to phase out its degree of participation in new war risk contracts more slowly than in the other two areas. This would give OPIC more time to market the harder-to-sell war risks coverage to the private companies.

¹ To date, the World Bank has not received a positive response outside the United States to its proposal for a multinational political risk insurance program.

As OPIC withdraws from writing new political risk insurance, the size of the agency will shrink. Its direct finance programs are not large enough to warrant the continuation of a separate agency and the Subcommittee recommends that they be shifted elsewhere or discontinued. Specifically, the current OPIC obligations under the Investment Guarantees Program should be transferred to the Agency for International Development. No new guarantees should be issued because sufficient protection against political risk is provided by the insurance program and the Subcommittee believes that insurance against commercial risks should be undertaken by private companies, not by United States foreign assistance programs. The Treasury could be the fiscal agent for collecting OPIC's outstanding loans, after which the remaining reserves would be recovered into the Treasury.

The Direct Investment Program should be shifted to AID along with the Special Activities Programs (§ 234(e)). AID is experienced in direct aid programs and, because of its substantial resources, better able to handle them than is OPIC. OPIC's Investment Encouragement Program should be discontinued.

The Agricultural Credit and Self-Help Program should be shifted into AID which has extensive experience in this area.

A review of the various alternatives to dealing with OPIC reveals that the best option is to require OPIC to turn its insurance of political risks over to the private sector as quickly as possible and to discontinue its direct finance programs or shift them to other agencies.

IX. SUMMARY OF CONCLUSIONS

The Subcommittee has concluded that:

i. The investment guarantee program administered by OPIC is, at best, only a marginal contributor to the development of the poorer countries of the world and OPIC is only a marginal stimulus to private investment in less developed countries.

ii. The program, as presently conceived, tends to increase the likelihood of United States Government involvement in the internal politics of other countries in connection with the property interests of United States corporations.

iii. The program, as presently administered by OPIC, and previously by its predecessor, AID, has inherent within it a conflict between the achievement of public policy and management by sound insurance principles. The result has been a large and unsatisfactory exposure of the good faith and credit of the U.S. Government.

iv. To eliminate this conflict, the program should be viewed as an insurance program, which can and should be administered solely on risk management principles, preferably with the maximum participation possible of the private insurance industry.

v. With this in mind, the Subcommittee proposes a phased transition in which an increasingly large proportion of the new direct insurance contracts would be written by private insurance companies in accordance with accepted insurance principles. The private insurance companies are also encouraged to take as large a proportion of the present portfolio as they might wish.

vi. Should it not be possible to arrive at a satisfactory agreement between OPIC and the private insurance industry to accomplish the transition to a privately administered insurance program by the date specified in the legislation, OPIC should discontinue issuing political risk insurance until such a time that an agreement is reached.

vii. If termination of OPIC becomes necessary all present contracts should be honored.

viii. The report suggests that OPIC should be phased into a reinsurance role as quickly as possible. That reinsurance role, in turn, should be examined by Congress in the last year of OPIC's authorization. OPIC should be required to issue periodic reports to Congress on its progress toward transferring its various insurance functions to the private sector and to multinational organizations and institutions.

ix. OPIC's request for \$72,000,000 in additional appropriations should not be granted.

x. OPIC finance programs should be transferred to AID and limited to countries with a per-capita income below \$450 (1973 dollars).

xi. The subcommittee applauds the efforts by OPIC to reduce its exposure in the highly sensitive extractive industries. The Subcommittee feels OPIC should continue this policy and its previous policy not to insure the oil industry in operations prior to the refining of crude oil.

It should not be possible to arrive at a satisfactory agreement between OPEC and the private business industry to accomplish the transition to a privately administered insurance program by the date specified in the legislation. OPEC should discontinue issuing political threats until such a time that an agreement is reached.

vi. If termination of OPEC becomes necessary all present contracts should be honored.

vii. The report suggesting that OPEC should be phased into a return to a privately administered insurance program in the near future should be examined by Congress in the last year of OPEC's administration. OPEC should be required to issue periodic reports to Congress on its progress toward transitioning its various insurance programs to the private sector and to multinational organizations and institutions.

viii. OPEC's request for \$75,000,000 in additional appropriations should not be granted.

ix. OPEC insurance programs should be restricted to AID and limited to countries with a per capita income below \$450 (1973 dollars).

x. The subcommittee applauds the efforts by OPEC to reduce its exposure in the highly sensitive extractive industries. The Subcommittee feels OPEC should continue this policy and its previous policy not to insure the oil industry in operations prior to the turning of the barrel.

ADDITIONAL VIEWS OF SENATOR CASE

I agree with the general thrust of the majority report of the Subcommittee on the OPIC (Overseas Private Investment Corporation) program. But I believe we should go further and draw the logical conclusion from the facts as we found them: namely that the financial and political risks inherent in the OPIC program, even with the revisions proposed in the report, outweigh the possible benefits. Accordingly, I believe that OPIC should not be extended beyond the end of its present term.

The Subcommittee found that—

i. The investment guarantee program administered by OPIC is, at best, only a marginal contributor to the development of the poorer countries of the world and OPIC is only a marginal stimulus to private investment in less developed countries.

ii. The program, as presently conceived, tends to increase the likelihood of United States Government involvement in the internal politics of other countries in connection with the property interests of United States corporations.

iii. The program, as presently administered by OPIC, and previously by its predecessor, AID, has inherent within it a conflict between the achievement of public policy and management by sound insurance principles. The result has been a large and unsatisfactory exposure of the good faith and credit of the U. S. Government.

The suggestions made by the majority for a gradual shift of OPIC's insurance to private industry, with what I believe would be an open-ended reinsurance commitment by the United States, are in my opinion unrealistic and would not in my judgment accomplish the majority's stated purpose.

I believe strongly that the only way to terminate the program is to terminate it.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

The Foreign Assistance Act of 1961, as amended

* * * * *

Title IV—Overseas Private Investment Corporation

Sec. 231. Creation, Purpose, and Policy.—To mobilize and facilitate the participation of United States private capital and skills in the economic and social progress of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a) to conduct financing operations on a self-sustaining basis, taking into account the economic and financial soundness of projects and the availability of financing from other sources on appropriate terms;

[(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;]

(b) to turn over as rapidly as possible, with careful protection of the financial interests of the United States, all outstanding investment insurance contracts issued by it, and its insurance administrative duties, to private insurance companies and multilateral organizations or institutions of which the United States is a member;";

[(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;]

(d) to conduct its insurance and reinsurance operations with due regard to principles of risk management [including when appropriate, efforts to share its insurance risks;]

(e) to utilize, to the maximum practicable extent consistent with the accomplishment of its purpose, the resources and skills of small business and to provide facilities to encourage its full participation in the programs of the Corporation;

(f) to encourage and support only those private investments in less developed friendly countries and areas which are sensitive and responsive to the special needs and requirements of their economies, and which contribute to the social and economic development of their people;

(g) to consider in the conduct of its operations the extent to which less developed country governments are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(h) to foster private initiative and competition and discourage monopolistic practices;

(i) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments *and employment* objectives of the United States. [;] *and*;

(j) to conduct its activities in consonance with the activities of the agency primarily responsible for administering part I and the international trade, investment, and financial policies of the United States Government [; and].

[(k) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas.]

* * * * *

INSURANCE

Sec. 234. Investment [Incentive Programs.]—[The Corporation is hereby authorized to do the following.]

[(a) Investment Insurance.]—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—]

(a) The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

[(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;**]**

(1) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

[(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government; **and]**

(2) *loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government; and*

[(C) *loss due to war, revolution, or insurrection.*]

(3) *loss due to war, revolution, or insurrection.*

[(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder: *Provided, however, That liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the total project financing.*]

(b) *Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make such arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this section shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the Corporation's proportional share as specified in section 234 (e) and (f).*

[(3) Not more than 10 per centum of the total face amount of investment insurance which the Corporation is authorized to issue under this subsection shall be issued to a single investor.]

(c) *Not more than 10 per centum of the total face amount of investment insurance which the Corporation is authorized to issue under this section shall be issued to a single investor.*

(d) *The Corporation should attempt to persuade the private insurance companies which join it in writing political risk insurance that investments which are especially helpful to the development of the host country's economy should receive a reduced premium because they face less risk of expropriation.*

(e) *The aggregate participation of the Corporation as insurer and co-insurer of the insurance policies issued under subsection (a) (1) and (2) of this section shall not exceed—*

(1) *on December 31, 1975, in each major economic sector of each country, 75 per centum of the value of all new policies issued, with respect to each such factor, from January 1, 1975 through December 31, 1975;*

(2) *on December 31, 1976, in each major economic sector of each country, 75 per centum of the value of all new policies issued.*

with respect to each such sector, for the period from January 1, 1976, through December 31, 1976, but in no event shall the percentage at any time during such period exceed 75 per centum;

(3) on December 31, 1977, in each major economic sector of each country, 50 per centum of the value of all new policies issued with respect to each such sector, for the period from January 1, 1977, through December 31, 1977, but in no event shall the percentage at any time during such period exceed 75 per centum; and

(4) on and after December 31, 1978 OPIC shall no longer participate as insurer or co-insurer of the insurance policies issued under subsection (a) (1) and (2) of this section. For the period from January 1, 1978 through December 31, 1978 OPIC's percentage of participation shall not exceed 50 per centum in any insurance contract.

(f) The aggregate participation of the Corporation as insurer and co-insurer of insurance policies issued under subsection (a) (3) of this section shall not exceed—

(1) on December 31, 1976, in each major economic sector of each country, 88½ per centum of the value of all new policies issued, with respect to each such sector, from January 1, 1976 through December 31, 1976;

(2) on December 31, 1977, in each major economic sector of each country, 88½ per centum of the value of all new policies issued, with respect to each such sector, for the period from January 1, 1977 through December 31, 1977, but in no event shall the percentage at any time during such period exceed 88½ per centum;

(3) on and after December 31, 1978, in each major economic sector of each country, 60 per centum of the value of all new policies issued with respect to each such sector, for the period from January 1, 1978 through December 31, 1978, but in no event shall the percentage at any time during such period exceed 88½ per centum; and

(4) on and after December 31, 1979 OPIC shall no longer participate as insurer or co-insurer of the insurance policies issued under subsection (a) (3) of this section. For the period from January 1, 1979 through December 31, 1979 the percentage participation by OPIC in any contract shall at no time exceed 60 per centum.

(g) The percentages specified in Section 234 (e) and (f) are to be applied in the first year of a contract and again in any year that the private companies and multilateral organizations or institutions refuse to renew the full share of the contract they had accepted in the first year of the contract.

(h) OPIC is authorized to issue reinsurance to private United States insurance companies which is equivalent to the face value of any policy issued by the private insurance consortium for the duration of contracts issued. In any one year no more than \$600 million of reinsurance may be issued. The reinsurance contracts must include a deductible provision whereby the reinsured private insurance companies must absorb in any one year a loss equal to at least the face value of all the insurance they have outstanding in that country in which they have issued the most insurance subject to OPIC reinsurance. On January 1, 1978 and thereafter OPIC must increase

the deductible provision so that the private insurance companies must absorb in any one year a loss equal to at least two times the face value of all the insurance they have outstanding in that country in which they have issued the most insurance subject to OPIC reinsurance. Any reinsurance issued by OPIC must be issued in a businesslike manner. Premiums charged for the reinsurance coverage must be designed to fully cover the reinsurance costs and claims.

(i) The remainder of the insurance shall be written with their consent by private insurance companies and by insurance programs fostered by, or under the auspices of multilateral organizations or institutions of which the United States is a member.

(j) On December 31, 1978 OPIC shall cease to write or manage the direct insurance issued under Section 234(a) (1) and (2). On December 31, 1979 OPIC shall cease to write or manage the direct insurance issued under Section 234(a) (3). It shall thereafter act solely as a reinsurer except to the extent necessary to manage its outstanding portfolio and any contracts OPIC assumes when private insurance companies and multinational organizations and institutions fail to renew their short term contracts.

[(b) Investment Guaranties.]—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided, further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further,* That not more than 10 per centum of the total face amount of investment guaranties which the Corporation is authorized to issue under this subsection shall be issued to a single investor.】

[(c) Direct Investment.]—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine. The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining.

No loans shall be made under this section to finance operations for mining or other extraction of any deposit of ore, oil, gas, or other mineral.】

【(d) **Investment Encouragement.**—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private organizations or private investors: *Provided, however,* That the Corporation shall not finance surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for mining or other extraction, of any deposit of ore, oil, gas, or other mineral. In carrying out this authority, the Corporation shall coordinate with such investment promotion activities as are carried out by the Department of Commerce.】

【(e) **Special Activities.**—To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private.】

Sec. 235. 【Issuing Authority, Direct Investment Fund and Reserves.】 *Issuing Authority and Reserves*—(a) (1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed \$7,500,000,000.

【(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 234(b) shall not exceed in the aggregate \$750,000,000, of which guaranties of credit union investment shall not exceed \$1,250,000: *Provided,* That the Corporation shall not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 234(b) or similar predecessor guaranty authority.】

(3) The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 104 of the Government Corporation Control Act, as amended, may limit the obligations and contingent liabilities to be undertaken under section 234 【(a) and (b)】 as well as the use of funds for operating and administrative expenses.

(4) The authority of section 234 (a) and (h) shall continue until **【June 30, 1974.】** *December 31, 1978. However, if the Corporation does not at any time meet the percentage limitations of subsection (e) or (f) of section 234, it shall cease issuing any new insurance contracts under all such subsections, except coinsurance and reinsurance contracts necessary to meet such limitations. Upon meeting those limitations, the Corporation may resume issuing new insurance contracts through December 31, 1978, in accordance with this title.”;*

[(b) There shall be established a revolving fund, known as the Direct Investment Fund, to be held by the Corporation. Such fund shall consist initially of amounts made available under section 232, shall be available for the purposes authorized under section 234(c), shall be charged with realized losses and credited with realized gains and shall be credited with such additional sums as may be transferred to it under the provisions of section 236.]

[(c) There shall be established in the Treasury of the United States an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves shall be available for discharge of liabilities, as provided in section 235(d), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to section 234(e); and (2) such sums as shall be appropriated pursuant to section 235(f) for such purpose. The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury. Additional amounts may thereafter be transferred to such reserves pursuant to section 236.]

(c) There shall be established in the Treasury of the United States an insurance fund known as the Insurance Reserve, which shall be available for discharge of liabilities, as provided in section 235(d), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section. Such fund shall be funded by (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to section 223(b) and the amount made available to the Corporation pursuant to section 235(e) and (2) such sums as shall be appropriated pursuant to section 235(f) for such purpose. The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury. Additional amounts may thereafter be transferred to such reserves pursuant to section 236.

(d) Any payments made to discharge liabilities under investment insurance issued under section 234[(a)] or under similar predecessor guaranty authority shall be paid first out of the Insurance Reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to section 235(f). [Any payments made to discharge liabilities under guaranties issued under section 234(b) or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to section 235(f).]

(e) There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 236, all fees and other

revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

(f) There is hereby authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance [and guaranty] fund or to discharge the liabilities under insurance [and guarantees] issued by the Corporation or issued under predecessor guaranty authority. *However, no appropriations shall be made until the Insurance Reserve is at a level below \$25 million. Any appropriations can then only be made with either specific authorization or to satisfy the full faith and credit provision of section 237(c).*

Sec. 236. Income and Revenues.—In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

[(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 235, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and]

(b) *transfers and additions to the insurance reserve; and*

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

Sec. 237. [General Provisions Relating to Insurance and Guaranty Programs.] Investment Insurance Program.—(a) Insurance [and guaranties] issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for insurance or guaranties.

(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance [or guaranty] issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance [or guaranty] is to be made, and any right, title, claim, or cause of action existing in connection therewith.

[(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.]

(c) *All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) of the Mutual Security Act of 1954, as amended,*

all guaranties heretofore issued pursuant to this title, including guaranties issued under this title and being administered, on and after the date of enactment of the Overseas Private Investment Corporation Amendments Act, under title XII of this chapter, shall constitute obligations, in accordance with the terms of such insurance or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

[(d) Fees shall be charged for insurance and guaranty coverage in amounts to be determined by the Corporation. In the event fees to be charged for investment insurance or guaranties are reduced, fees to be paid under existing contracts for the same type of guaranties or insurance and for similar guaranties issued under predecessor guaranty authority may be reduced.]

(d) Fees shall be charged for insurance coverage in amounts to be determined by the Corporation. In the event fees to be charged for investment insurance are reduced, fees to be paid under existing contracts for the same type of insurance and for guaranties issued under predecessor guaranty authority may be reduced.

[(e) No insurance or guaranty of any equity investment shall extend beyond twenty years from the date of issuance.]

(e) No insurance of any investment shall extend beyond twenty years from the date of issuance.

[(f) No insurance or guaranty issued under this title shall exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings or profits actually accrued on said investment to the extent provided by such insurance or guaranty.]

(f) No insurance issued under this title shall exceed 90 per centum of the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment and reinvested in said investment to the extent provided by such insurance.;

[(g) No payment may be made under any guaranty issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.]

(g) No payment may be made under any insurance issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(h) insurance [or guaranties] of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

[(i) Claims arising as a result of insurance or guaranty operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.]

(i) *Claims arising as a result of insurance operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine, or may be litigated in court with the consent of the parties.*

[(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.]

(k) In making a determination to issue insurance [or a guaranty] under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance or guaranty upon the balance of payments of the United States.

Sec. 238. Definitions.—As used in this title—

(a) the term “investment” includes any contribution of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term “expropriation” includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor’s own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term “eligible investor” means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States or any State or territory thereof and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided, however,* That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total issued and subscribed share capital, held by other than the United States owners: *Provided further,* That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as at the time the insurance or guaranty is issued; [and]

(d) the term “predecessor guaranty authority” means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b)(3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties[.]; and

Sec. 239. General Provisions and Powers.—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

(b) The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 [(a), (b), and (d)]. Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this title as may be determined by the President.

(c) The Corporation shall be subject to the applicable provisions of the Government Corporation Control Act, except as otherwise provided in this title.

(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c)); to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) The Auditor-General of the Agency for International Development (1) shall have the responsibility for planning and directing the execution of audits, reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Auditor-General shall report to the Board. The agency primarily responsible for administering part I shall be reimbursed by the Corporation for all expenses incurred by the Auditor-General in connection with his responsibilities under this subsection.

(f) In order to further the purposes of the Corporation there shall be established an Advisory Council to be composed of such representatives of the American business community as may be selected by the Chairman of the Board. The President and the Board shall, from time to time, consult with such Council concerning the objectives of the Corporation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 of the United States Code for travel and other expenses incurred by them in the performance of their functions under this section.

[(g) Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia or Romania of the programs authorized by this title, if the President determines that the operation of such program in such country is important to the national interest.]

(g) Notwithstanding any other provisions of law, the Corporation is authorized to perform only those functions set forth in this title, and no function, duty, authority, or power may be transferred, delegated, or redelegated to the Corporation except by a specific provision of law enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act.

[Sec. 240. Agricultural Credit and Self-Help Community Development Projects.—(a) It is the sense of the Congress that in order to stimulate the participation of the private sector in the economic development of less developed countries in Latin America, the authority conferred by this section should be used to establish pilot programs in not more than five Latin American countries to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.

(b) To carry out the purposes of subsection (a), the Corporation is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations in not more than five Latin American countries assuring against loss of not to exceed 25 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.]

[(c) The total face amount of guaranties issued under this section outstanding at any one time shall not exceed \$15,000,000. Not more

than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d) The Inter-American Social Development Institute shall be consulted in developing criteria for making loans eligible for guaranty coverage under this section.

(e) The guaranty reserve established under section 235(c) shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section.

(f) Notwithstanding the limitation contained in subsection (c) of this section, foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States may be utilized to carry out the purposes of this section, including the discharge of liabilities incurred under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.

(g) The Corporation shall, on or before January 15, 1972, make a detailed report to the Congress on the results of the pilot programs established under this section, together with such recommendations as it may deem appropriate.】

【(h) The authority of this section shall continue until June 30, 1973.】

Sec. 240A. Reports to the Congress.—(a) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year.

【(b) Not later than March 1, 1974, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all or part of its activities to private United States citizens, corporations, or other associations.】

(b) Not later than January 1, 1976, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all of its activities to private insurance companies, multilateral organizations and institutions, or other entities.

Sec. 3. Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new title:

* * * * *

TITLE XII—FORMER OVERSEAS PRIVATE INVESTMENT CORPORATION PROGRAMS

SEC. 297. Transfer of Duties.—(a) *The President is authorized to administer—*

(1) guaranties of loans and other investments issued by the Overseas Private Investment Corporation under section 234(b) of this Act, as such section existed immediately prior to the date of enactment of the Overseas Private Investment Corporation Amendments Act;

(2) loans made by the Corporation under section 234(c) of this Act, as that section existed immediately prior to such date;

(3) any identification, assessment, surveying, or promotion of private investment opportunities initiated or supported by the Corporation under section 234(d) of this Act, as that section existed immediately prior to such date;

(4) such special projects and programs as may have been initiated by the Corporation under section 234(e) of this Act, as that section existed immediately prior to such date; and

(5) such pilot programs as may have been established by the Corporation under section 240 of this Act, as that section existed immediately prior to such date.

(b) After the enactment of the Overseas Private Investment Corporation Amendments Act no new loans, guaranties or projects, as enumerated in subsection (a) of this section, may be issued or undertaken by OPIC; though the President may delegate those programs to other agencies. However, in no event shall new loans, guaranties or projects be issued or undertaken in nations with a per capita income of greater than \$450 in 1973 dollars.

(c) No payment may be made under any guaranty issued by the Overseas Private Investment Corporation and administered under this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(d) Each guaranty contract executed by any officer of the Overseas Private Investment Corporation, who was designated by the Board, shall be conclusively presumed to have been issued in compliance with the requirements of title IV of this chapter, as such title existed immediately prior to the date of enactment of this title.

Sec. 298. Investment Fund.—(a) There is established in the Treasury of the United States a fund known as the "Investment Fund". Such fund shall consist of—

(1) those sums credited, immediately prior to the date of enactment of this title, to the Direct Investment Fund established by section 235 (b) of this Act, as such section existed immediately prior to the date of enactment of the Overseas Private Investment Corporation Amendments Act;

(2) those sums credited, immediately prior to the date of enactment of this title, to the account known as the Guaranty Reserve of the insurance and guaranty fund established by section 235 (c) of this Act, as such section existed immediately prior to such date; and

(3) any amounts paid on and after the date of enactment of this title with respect to guaranties, investments, and loans issued, and as the result of investment incentives, programs, and projects undertaken, by the Overseas Private Investment Corporation under those provisions of law referred to in section 297 (a) (1)–(5) of this Act.

(b) The Investment Fund shall be available to discharge liabilities and commitments made by the Overseas Private Investment Corporation under those provisions of law referred to in section 297 (a) (1)–(5) of this Act.

(c) There are authorized to be appropriated, to remain available until expended, such sums as may be necessary from time to time to replenish or increase the Investment Fund in order to discharge the liabilities and commitments chargeable to the Fund under subsection (b) of this section.

Sec. 299. Reports.—The President shall report annually to Congress with respect to his activities under this title, including the status of the Investment Fund.